

1-1 By: Burkett (Senate Sponsor - Carona) H.B. No. 2548
 1-2 (In the Senate - Received from the House April 22, 2013;
 1-3 April 24, 2013, read first time and referred to Committee on
 1-4 Business and Commerce; May 1, 2013, reported favorably by the
 1-5 following vote: Yeas 6, Nays 0; May 1, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Carona	X			
1-8 Taylor			X	
1-9 Eltife			X	
1-10 Estes	X			
1-11 Hancock			X	
1-12 Lucio	X			
1-13 Van de Putte	X			
1-14 Watson	X			
1-15 Whitmire	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the enforcement of a provision regarding the imposition
 1-20 of a surcharge for the use of a credit card.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 339.001, Finance Code, is amended by
 1-23 amending Subsection (c) and adding Subsections (d) and (e) to read
 1-24 as follows:

1-25 (c) The consumer credit commissioner has [~~Finance~~
 1-26 ~~Commission of Texas shall have~~] exclusive jurisdiction to enforce
 1-27 [~~and adopt rules relating to~~] this section.

1-28 (d) The Finance Commission of Texas may adopt rules relating
 1-29 to this section. Rules adopted pursuant to this section shall be
 1-30 consistent with federal laws and regulations governing credit card
 1-31 transactions described by this section.

1-32 (e) This section does not create a cause of action against
 1-33 an individual for violation of this section.

1-34 SECTION 2. Section 14.101, Finance Code, is amended to read
 1-35 as follows:

1-36 Sec. 14.101. GENERAL DUTIES OF COMMISSIONER. The
 1-37 commissioner shall enforce Section 339.001, this chapter,
 1-38 Subtitles B and C of Title 4, Chapter 393 with respect to a credit
 1-39 access business, and Chapter 394 in person or through an assistant
 1-40 commissioner, examiner, or other employee of the office.

1-41 SECTION 3. Section 14.201, Finance Code, is amended to read
 1-42 as follows:

1-43 Sec. 14.201. INVESTIGATION AND ENFORCEMENT
 1-44 AUTHORITY. Investigative and enforcement authority under this
 1-45 subchapter applies only to Section 339.001, this chapter, Subtitles
 1-46 B and C of Title 4, Chapter 393 with respect to a credit access
 1-47 business, and Chapter 394.

1-48 SECTION 4. Section 14.2015(a), Finance Code, as amended by
 1-49 Chapters 1182 (H.B. 3453) and 1302 (H.B. 2594), Acts of the 82nd
 1-50 Legislature, Regular Session, 2011, is reenacted and amended to
 1-51 read as follows:

1-52 (a) Except as provided by Subsection (b), information or
 1-53 material obtained or compiled by the commissioner in relation to an
 1-54 examination or investigation by the commissioner or the
 1-55 commissioner's representative of a license holder, registrant,
 1-56 applicant, or other person under Section 339.001, Subtitle B or C,
 1-57 Title 4, Subchapter G of Chapter 393, or Chapter 394 is confidential
 1-58 and may not be disclosed by the commissioner or an officer or
 1-59 employee of the Office of Consumer Credit Commissioner, including:

1-60 (1) information obtained from a license holder,
 1-61 registrant, applicant, or other person examined or investigated

2-1 under Section 339.001, Subtitle B or C, Title 4, Subchapter G of
 2-2 Chapter 393, or Chapter 394;

2-3 (2) work performed by the commissioner or the
 2-4 commissioner's representative on information obtained from a
 2-5 license holder, registrant, applicant, or other person for the
 2-6 purposes of an examination or investigation conducted under Section
 2-7 339.001, Subtitle B or C, Title 4, Chapter 393 with respect to a
 2-8 credit access business, or Chapter 394;

2-9 (3) a report on an examination or investigation of a
 2-10 license holder, registrant, applicant, or other person conducted
 2-11 under Section 339.001, Subtitle B or C, Title 4, Chapter 393 with
 2-12 respect to a credit access business, or Chapter 394; and

2-13 (4) any written communications between the license
 2-14 holder, registrant, applicant, or other person, as applicable, and
 2-15 the commissioner or the commissioner's representative relating to
 2-16 or referencing an examination or investigation conducted under
 2-17 Section 339.001, Subtitle B or C, Title 4, Chapter 393 with respect
 2-18 to a credit access business, or Chapter 394.

2-19 SECTION 5. Section 14.251(b), Finance Code, is amended to
 2-20 read as follows:

2-21 (b) The commissioner may order a person who violates or
 2-22 causes a violation of Section 339.001, this chapter, Chapter 394,
 2-23 or Subtitle B, Title 4, or a rule adopted under Section 339.001,
 2-24 this chapter, Chapter 394, or Subtitle B, Title 4, or a credit
 2-25 access business who violates or causes a violation of Chapter 393 or
 2-26 a rule adopted under Chapter 393, to make restitution to an
 2-27 identifiable person injured by the violation.

2-28 SECTION 6. Section 14.261(a), Finance Code, is amended to
 2-29 read as follows:

2-30 (a) In administering this chapter, the commissioner may
 2-31 accept assurance of voluntary compliance from a person who is
 2-32 engaging in or has engaged in an act or practice in violation of:

2-33 (1) Section 339.001;
 2-34 (2) this chapter or a rule adopted under this chapter;
 2-35 ~~(3) [2]~~ Chapter 393, if the person is a credit
 2-36 access business, or Chapter 394; or
 2-37 ~~(4) [3]~~ Subtitle B, Title 4, or a rule adopted under
 2-38 Subtitle B, Title 4.

2-39 SECTION 7. Section 14.262, Finance Code, is amended to read
 2-40 as follows:

2-41 Sec. 14.262. EFFECT OF ASSURANCE. (a) An assurance of
 2-42 voluntary compliance is not an admission of a violation of:

2-43 (1) Section 339.001;
 2-44 (2) this chapter or a rule adopted under this chapter;
 2-45 ~~(3) [2]~~ Chapter 393 with respect to a credit access
 2-46 business or Chapter 394; or
 2-47 ~~(4) [3]~~ Subtitle B, Title 4, or a rule adopted under
 2-48 Subtitle B, Title 4.

2-49 (b) Unless an assurance of voluntary compliance is
 2-50 rescinded by agreement or voided by a court for good cause, a
 2-51 subsequent failure to comply with the assurance is prima facie
 2-52 evidence of a violation of:

2-53 (1) Section 339.001;
 2-54 (2) this chapter or a rule adopted under this chapter;
 2-55 ~~(3) [2]~~ Chapter 393 with respect to a credit access
 2-56 business or Chapter 394; or
 2-57 ~~(4) [3]~~ Subtitle B, Title 4, or a rule adopted under
 2-58 Subtitle B, Title 4.

2-59 SECTION 8. The change in law made by this Act applies only
 2-60 to a violation of Section 339.001, Finance Code, as amended by this
 2-61 Act, that occurs on or after the effective date of this Act. A
 2-62 violation that occurs before that date is governed by the law in
 2-63 effect immediately before the effective date of this Act, and that
 2-64 law is continued in effect for that purpose.

2-65 SECTION 9. To the extent of any conflict, this Act prevails
 2-66 over another Act of the 83rd Legislature, Regular Session, 2013,
 2-67 relating to nonsubstantive additions to and corrections in enacted
 2-68 codes.

3-1 SECTION 10. This Act takes effect September 1, 2013.

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